prepare his defense and to preserve for him the plea of double jeopardy upon a second prosecution. Other courts, including New York, are satisfied, in the liquor cases, with an indictment in general terms. *People* v. *Pulhamus*, 8 App. Div. 133, 40 N. Y. Supp. 491; *State* v. *Duff*, 81 W. Va. 407, 94 S. E. 498. See JOYCE ON INTOXICATING LIQUORS, § 643. Because of the nature of the crime, the latter seems the preferable view. In the principal case, the court decided that the crime was not continuous and, further, refused to follow the precedent of the liquor cases. Even under this questionable interpretation, the prisoner's interests could be adequately secured by a bill of particulars in jurisdictions where such is allowed. *State* v. *Duff*, *supra*.

JOINT ADVENTURES — FIDUCIARY RELATION BETWEEN CO-ADVENTURERS — DUTY TO DIVIDE SECRET PROFITS. — The plaintiff and the defendant were joint adventurers in an enterprise to secure credit for an oil company. The defendant ostensibly withdrew from the undertaking, and the oil company induced the plaintiff to release it from its agreement by representing that the defendant had definitely dropped out of the negotiations. Immediately after, the defendant entered into a new agreement with the oil company on the same terms as originally, but with the plaintiff eliminated. The plaintiff seeks an account of profits made under the second contract, and a division according to the terms of the joint adventure. *Held*, that the relief be granted. *Brown* v. *Leach*, 178 N. Y. Supp. 319 (App. Div.).

For a discussion of this case, see NOTES, p. 852, *supra*.

LIENS — PRIORITY OF COMMON-LAW LIEN OVER CONDITIONAL VENDOR'S LIEN. — An automobile was leased monthly by the plaintiff to X and the agreement between the parties contained a provision by which X was permitted at any time to purchase the automobile outright. X while in possession delivered the automobile to the defendant for repairs, which were performed by the latter. The defendant claimed the right to retain a lien on the automobile for value of his repairs. *Held*, that no lien attached. *De Witt* v. *Gardner*, 76 Leg. Int. 824 (Pa.).

Subject to exceptions made in favor of innkeepers and carriers, no common-law lien attaches to chattels delivered without the authority of the owner. *Small* v. *Robinson*, 69 Me. 425; *Robins* v. *Gray*, [1895] 2 Q. B. 501. In conformance with this rule, it has been held generally that no lien can be acquired by an artisan as against the mortgagee or conditional seller of a chattel where repairs have been made at the request of the mortgagor or conditional buyer. *Sargent* v. *Usher*, 55 N. H. 287; *Storms* v. *Smith*, 137 Mass. 201; *Baumann Co.* v. *Roth*, 67 Misc. 458, 123 N. Y. Supp. 191. Considerable authority, however, holds that where the continued use of the chattel contemplates repairs, as in the principal case, the common-law lien prevails. *Keene* v. *Thomas*, [1905] 1 K. B. 130; *Watts* v. *Sweeney*, 127 Ind. 116, 26 N. E. 680; *Hammond* v. *Danielson*, 126 Mass. 294. It is argued that in such cases the mortgagee impliedly authorizes the making of repairs and thereby voluntarily subjects the property to the acquisition of a lien. Again, the improvements benefit not only the mortgagor but also the mortgagee by preserving his security, and in justice the lien should take priority. Several jurisdictions, however, refuse to adopt this reasoning and make no exception of these cases to the general rule. *Baughman Auto. Co.* v. *Emanuel*, 137 Ga. 354, 73 S. E. 511; *Small* v. *Robinson*, *supra*; *Denison* v. *Shuler*, 47 Mich. 598, 111 N. W. 402. The latter cases, it seems, represent the better view. The authority that the courts above imply in these cases is clearly contrary to the understanding of the parties — the mortgagee never consents that his security shall be impaired in the absence of express agreement. Furthermore, the recording of the mortgage or the

conditional sale fixes the repairer with notice that a valid lien has already been acquired and no injustice results if he is confined to a personal action against the mortgagor.

PARTNERSHIP — RIGHTS OF PARTNERS *INTER SE* — FIDUCIARY RELATION AFTER DISSOLUTION. — A partnership, composed of A and B, was offered the timber rights in certain realty, and cut and took possession of some of the timber. On dissolution, A assigned his rights in all partnership timber to B, who continued the business. A then purchased the timber rights in this same property for his son, who knew all the circumstances. The son sues B for conversion of the timber. *Held*, that the defendant have judgment. *Carey* v. *Wilsey*, 185 Pac. 600 (Wash.).

The court assumed that there was no binding contract made by the partnership for the timber, and rested its decision on principles of estoppel. But assuming that there was no contract, the fiduciary relation between partners would seem to be a sounder basis for the result. Partners owe a duty to deal openly and fairly with each other in all matters touching their business. That this duty exists during the continuance of the partnership is certain. *Hurst* v. *Brennen*, 239 Pa. St. 216, 86 Atl. 778; *Deutschman* v. *Dwyer*, 223 Mass. 261, 111 N. E. 877. There seems to be the same duty as to dealings in the formation of the partnership. *Selwyn & Co.* v. *Waller*, 212 N. Y. 507, 106 N. E. 321; *Bloom* v. *Lofgren*, 64 Minn. 1, 65 N. W. 960. And so, as to transactions in contemplation of dissolution. *Knapp* v. *Reed*, 88 Neb. 754, 130 N. W. 430; *Mitchell* v. *Read*, 84 N. Y. 556. It is improper to dissolve the partnership for the purpose of excluding certain partners from expected profits or for the purpose of competing with the partnership for a particular contract. *Stern* v. *Warren*, 185 App. Div. 823, 174 N. Y. Supp. 30; *Williamson* v. *Monroe*, 101 Fed. 322. Where a partnership has been dissolved by the death of one partner, the survivor is under certain duties and disabilities peculiar to fiduciary relations. *Western Securities Co.* v. *Atlee*, 168 Iowa, 650, 151 N. W. 56; *Rowell* v. *Rowell*, 122 Wis. 1, 99 N. W. 473. It would seem that on theory there should be a duty of fair and open dealing, after the dissolution, as to matters relating to prior joint business. At least one recent case has taken this view. *Stevenson & Sons, Ltd.* v. *Aktiengesellschaft*, [1918] A. C. 239.

SEARCHES AND SEIZURES — VALIDITY OF JUDICIAL ORDER REQUIRING PRODUCTION OF PAPERS DISCOVERED BY UNLAWFUL SEARCH. — In a criminal prosecution by the United States, the indictment was framed on information obtained from papers seized in an unlawful search of the premises of the defendants at the instigation of the district attorney. Before trial the government returned the papers, but at the trial a subpœna was served, ordering the defendants to produce the same papers. The defendants refused on the ground, *inter alia*, that the order violated the Fourth Amendment and they were attached for contempt. *Held*, that they were not guilty. *Silverthorne Lumber Co.* v. *United States*, U. S. Sup. Ct. No. 358, October Term, 1919.

The admission as evidence of testimony obtained in violation of a privilege is error, for the law provides no other means to protect the privilege. *People* v. *Mullings*, 83 Cal. 138, 23 Pac. 229; *Hearne* v. *State*, 50 Tex. Crim. Rep. 431, 97 S. W. 1050. But courts admit as evidence documents obtained by police officials or private individuals, even if obtained in violation of the constitutional guarantees against unreasonable searches and seizures, the law supplying other legal and equitable remedies against the wrongdoers in such cases. *Adams* v. *New York*, 192 U. S. 585; *Williams* v. *State*, 100 Ga. 511, 28 S. E. 624; *Gindrat* v. *The People*, 138 Ill. 103, 27 N. E. 1085. To this general rule the Supreme Court seems to make two exceptions. A refusal to return papers unlawfully seized is reversible error, if the application was made before